### 108TH CONGRESS 1ST SESSION

# H. R. 1484

To provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes.

## IN THE HOUSE OF REPRESENTATIVES

March 27, 2003

Mr. McInnis introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

# A BILL

To provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,

#### 1 SECTION 1. SHORT TITLE.

- 2 This Act may be cited as the "Southern Ute and Col-
- 3 orado Intergovernmental Agreement Implementation Act
- 4 of 2003".

### 5 SEC. 2. FINDINGS AND PURPOSE.

- 6 (a) FINDINGS.—Congress, after review and in rec-
- 7 ognition of the purposes and uniqueness of the Intergov-
- 8 ernmental Agreement between the Southern Ute Indian
- 9 Tribe and the State of Colorado, finds that—
- 10 (1) the Intergovernmental Agreement is con-
- sistent with the special legal relationship between
- 12 Federal Government and the Tribe; and
- 13 (2) air quality programs developed in accord-
- ance with the Intergovernmental Agreement and
- submitted by the Tribe for approval by the Adminis-
- trator may be implemented in a manner that is con-
- sistent with the Clean Air Act (42 U.S.C. 7401 et
- 18 seq.).
- 19 (b) Purpose.—The purpose of this Act is to provide
- 20 for the implementation and enforcement of air quality con-
- 21 trol programs under the Clean Air Act (42 U.S.C. 7401
- 22 et seq.) and other air quality programs developed in ac-
- 23 cordance with the Intergovernmental Agreement that pro-
- 24 vide for—
- 25 (1) the regulation of air quality within the exte-
- 26 rior boundaries of the Reservation; and

1	(2) the establishment of a Southern Ute Indian
2	Tribe/State of Colorado Environmental Commission.
3	SEC. 3. DEFINITIONS.
4	In this Act:
5	(1) Administrator.—The term "Adminis-
6	trator" means the Administrator of the Environ-
7	mental Protection Agency.
8	(2) Commission.—The term "Commission"
9	means the Southern Ute Indian Tribe/State of Colo-
10	rado Environmental Commission established by the
11	State and the Tribe in accordance with the Intergov-
12	ernmental Agreement.
13	(3) Intergovernmental agreement.—The
14	term "Intergovernmental Agreement" means the
15	agreement entered into by the Tribe and the State
16	on December 13, 1999.
17	(4) Reservation.—The term "Reservation"
18	means the Southern Ute Indian Reservation.
19	(5) STATE.—The term "State" means the State
20	of Colorado.
21	(6) Tribe.—The term "Tribe" means the
22	Southern Ute Indian Tribe.
23	SEC. 4. TRIBAL AUTHORITY.
24	(a) AIR PROGRAM APPLICATIONS.—

(1) In General.—The Administrator is au-

- thorized to treat the Tribe as a State for the purpose of any air program applications submitted to the Administrator by the Tribe under section 301(d)
- of the Clean Air Act (42 U.S.C. 7601(d)) to carry
- 6 out, in a manner consistent with the Clean Air Act
- 7 (42 U.S.C. 7401 et seq.), the Intergovernmental
- 8 Agreement.

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- 9 (2) APPLICABILITY.—If the Administrator approves an air program application of the Tribe, the approved program shall be applicable to all air resources within the exterior boundaries of the Res-
- ervation.
- 14 (b) TERMINATION.—If the Tribe or the State termi-
- 15 nates the Intergovernmental Agreement, the Adminis-
- 16 trator shall promptly take appropriate administrative ac-
- 17 tion to withdraw treatment of the Tribe as a State for
- 18 the purpose described in subsection (a)(1).

### 19 SEC. 5. CIVIL ENFORCEMENT.

- If any person fails to comply with a final civil order
- 21 of the Tribe or the Commission made in accordance with
- 22 a program under the Clean Air Act (42 U.S.C. 7401 et
- 23 seq.) or any other air quality program established under
- 24 the Intergovernmental Agreement, the Tribe or the Com-
- 25 mission, as appropriate, may bring a civil action for de-

1	claratory or injunctive relief, or for other orders in aid
2	of enforcement, in the United States District Court for
3	the District of Colorado.
4	SEC. 6. JUDICIAL REVIEW.
5	Any decision by the Commission that would be sub-
6	ject to appellate review if it were made by the Adminis-
7	trator—
8	(1) shall be subject to appellate review by the
9	United States Court of Appeals for the Tenth Cir-
10	cuit; and
11	(2) may be reviewed by the Court of Appeals
12	applying the same standard that would be applicable
13	to a decision of the Administrator.
14	SEC. 7. DISCLAIMER.
15	Nothing in this Act—
16	(1) modifies any provision of—
17	(A) the Clean Air Act (42 U.S.C. 7401 et
18	seq.);
19	(B) Public Law 98–290 (25 U.S.C. 668
20	note); or
21	(C) any lawful administrative rule promul-
22	gated in accordance with those statutes; or
23	(2) affects or influences in any manner any
24	past or prospective judicial interpretation or applica-
25	tion of those statutes by the United States, the

- 1 Tribe, the State, or any Federal, tribal, or State
- 2 court.

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